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SENATE BILL 2875 By
Atchley

HOUSE BILL 3214
By Jackson

AN ACT to enact the Tennessee Public Charter Schools Act of 2000, and to amend Tennessee Code Annotated, Title 49, Title 8, Chapter 35, and Section 12-4-101 and 12-4-102, accordingly.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Short Title.

This act shall be known and may be cited as the "Tennessee Public Charter Schools Act of 2000."

SECTION 2. Purpose and Intent.

(a) The purpose of this act is to authorize a system of public charter schools to provide opportunities for teachers, parents, social service agencies, colleges and universities, community groups, and other groups and individuals to establish and maintain public schools that operate independently of existing schools and school districts in order to accomplish the following objectives:

- (1) Improve pupil learning;
- (2) Increase learning opportunities for all pupils, with special emphasis on expanded learning experiences for students who are at-risk for academic failure;

(3) Encourage the development and use of different and innovative teaching methods;

(4) Create performance-based rather than rule-based accountability systems by holding the schools established under this act accountable for meeting measurable student achievement results;

(5) Create new professional opportunities for teachers, administrators, and other school personnel, including the opportunity to be responsible for the learning program at the school site; and

(6) Provide parents and students with expanded choices in the types of educational opportunities available within the state's public education system.

(b) This act authorizes, but does not mandate, the establishment of public charter schools in Tennessee.

SECTION 3. Applicability.

This act applies only to schools formed and operated hereunder.

SECTION 4. Definitions.

(1) "Charter agreement" means the written agreement between the sponsor of a public charter school and a chartering authority setting forth the guidelines under which the public charter school shall operate.

(2) "Chartering authority" means those entities authorized under this act to approve, deny, renew, or revoke a charter application or agreement, and to provide oversight for the public charter schools that they authorize.

(3) "Governing body" means the organized group of persons who will operate a public charter school by deciding matters including, but not limited to, budgeting, curriculum, and other operating procedures for the school and by overseeing management and administration of the school.

(4) “Licensed teacher” means a person over the age of eighteen (18) who meets the qualifications of Title 49, Chapter 5, Part 1, and has received a license to teach in the public school system in compliance with the rules and regulations of the state board of education.

(5) “Local chartering authority” means all chartering authorities except the state board of education, which considers charter applications only on appeal.

(6) “Local education agency” has the same definition as used in the Section 49-3-302.

(7) “Public charter school” means a public school in the state of Tennessee that is established and operating under the terms of a charter agreement and in accordance with this act.

(8) “Sponsor” means any individual, group, or organization filing an application in support of the establishment of a public charter school.

SECTION 5. Public Status; Exemption from Statutes, Rules, and Regulations.

(a) Public charter schools shall be part of the state program of public education.

(b) Except as otherwise provided in this act or its charter agreement, a public charter school is exempt from all statutes, rules, and regulations applicable to a school, a school board, or a local education agency, although it may elect to comply with one or more provisions of statutes, rules, or regulations.

SECTION 6. Formation of a Public Charter School

(a) A sponsor wishing to establish a public charter school shall submit an application to a local chartering authority in keeping with the guidelines set forth in Section 8. Upon approval of the charter application and charter agreement by local chartering authority or, on appeal, by the state board of education, the sponsor shall authorize a governing body to operate the school.

(b) A charter application, if approved, shall be authorized for an initial period of five (5) academic years and may be renewed indefinitely for periods of five (5) academic years.

(c) A public charter school shall be operated by a private nonprofit corporation. No charter may be granted to or held by a for-profit corporation.

(d) A public charter school may offer any configuration of grades K-12. A public charter school that offers kindergarten may also offer early childhood education, if so specified in its charter agreement. A public charter school may operate an adult basic education program, adult high school completion program, or general education development testing program, as specified in its charter agreement.

(e) A public charter school may be formed by creating a new school or by converting an existing school to charter status pursuant to the provisions of this act.

(1) No charter agreement shall be granted under this act that authorizes the conversion of any private or home-based school to charter status.

(2) Any existing public school may convert to a public charter school pursuant to the provision of this act if seventy-five percent (75%) of the full-time teachers or sixty percent (60%) of the parents whose children are enrolled at the school agree and demonstrate support by signing a petition seeking conversion.

(3) The conversion of a public school to charter status shall not occur during an academic school.

(4) Upon approval of a charter for a conversion school, the superintendent of the local education agency shall reassign to another school within the school district any faculty or administrative staff member who wishes to be reassigned or who is not retained by the governing body of the conversion school.

(5) Upon the dissolution of a conversion school, or upon the final revocation or nonrenewal of the charter of a conversion school, ownership of the physical facilities and real property of the school shall revert to the local education agency unless otherwise specified in the charter agreement.

SECTION 7. The Charter Application.

(a) No earlier than May 15 and no later than November 15 of the calendar year preceding the calendar year in which the proposed public charter school plans to begin operation, the sponsor seeking to establish a public charter school shall prepare and file with a local chartering authority an application providing the following information and documents:

(1) A statement defining the mission and goals of the proposed public charter school;

(2) A description of the proposed instructional goals and methods for the school, which, at a minimum, shall include teaching and classroom instruction methods that will be used to provide students with the knowledge, proficiency and skills needed to reach the goals of the school;

(3) A plan for evaluating student academic achievement at the school;

(4) An operating budget based on anticipated enrollment;

(5) A description of the method for conducting annual audits of the financial, administrative, and program operations of the school;

(6) A timetable for commencing operations as a public charter school and a schedule for the school year, including the length of school year and length of school day;

(7) A description of the proposed rules and policies for governance and operation of the school;

(8) A description of the anticipated student enrollment;

(9) A description of the admission, suspension, and expulsion policies and procedures of the school;

(10) A description of the procedure the school plans to follow to ensure the health and safety of students, employees, and guests of the school and to comply with the applicable health and safety laws and regulations of the federal government and the laws of the state of Tennessee;

(11) An explanation of the qualifications required of employees of the proposed public charter school;

(12) An identification of the individuals and/or entities sponsoring the proposed charter school, including their names and addresses; and

(13) The names and addresses of those members of the governing body known at the time of the application. An accurate and updated list of the members of the governing body of the public charter school must be supplied to the chartering authority on an ongoing basis.

SECTION 8. Chartering Authorities.

(a) Entities authorized under this act to serve as chartering authorities are:

(1) Local boards of education, provided, however, that a public charter school authorized by a local board of education must be located within the boundaries of that school district;

(2) State institutions of higher learning that have been designated as "universities" and that accept high school graduates into general curriculum undergraduate programs (specifically, The University of Tennessee at Knoxville, The University of Tennessee at Chattanooga, East Tennessee State University, Austin Peay State University, Middle Tennessee State University, Tennessee State University, The University of Tennessee at Martin, and The University of Memphis); and

(3) The state board of education, provided, however, that the state board of education shall be limited to reviewing, on appeal, the decisions of local chartering authorities. The state board of education shall act as chartering authority for those public charter schools authorized by its decision to overturn a decision by a local chartering authority.

(b) Chartering authorities shall have the authority to negotiate charter agreements, to approve or disapprove charter applications, to approve or disapprove applications for renewal of a charter, and to revoke charters.

(c) No chartering authority is required under this act to approve any charter application.

(d) Chartering authorities shall have oversight over public charter schools authorized by their decisions as provided for in Section 20 and in the charter agreement.

SECTION 9. Approval Process.

(a) Within sixty (60) days of the receipt of a charter application, a local chartering authority shall rule by resolution, at a regular or special called meeting, on the approval or denial of a charter application. Should a local chartering authority fail to either approve or deny a charter application within the sixty (60) day time limit herein prescribed, such application shall be deemed approved.

(b) A local chartering authority shall approve a charter application if the local chartering authority determines that i) the application contains the information required by this act, ii) the applicant has the ability to operate the school and would be likely to operate the school in an educationally and economically sound manner, and iii) granting the application would achieve one or more of the purposes of this act, as defined in Section 3(a).

(c) The grounds upon which a local chartering authority has based a decision to deny a charter application must be stated in writing. Local chartering authorities shall not deny

an application on the basis that approval of the application might exceed the maximum number of public charter schools provided for in Section 11(b) of this act.

(d) Within fifteen (15) days of receipt of a denial decision and the written grounds for denial, the sponsor may submit an amended application to the local chartering authority. The local chartering authority shall have fifteen (15) days from the receipt of an amended application to either approve or deny the amended application. Should the local chartering authority fail to either approve or deny an amended charter application within the fifteen (15) day time limit herein prescribed, such application shall be deemed approved.

(e) A denial by a local chartering authority of an amended charter application may be appealed by the sponsor, within fifteen (15) days of the denial, to the state board of education. The appeal shall receive de novo review on the record, without the presumption of correctness of the decision of the local board of education.

(f) Within sixty (60) days of the receipt of an appeal, the state board of education shall rule by resolution, at a regular or special called meeting, on the approval or denial of a charter application. Should the state board of education fail to either approve or deny a charter application within sixty (60) days of the receipt of a completed application, such application shall be deemed approved. A decision by the state board of education shall be final, and no appeal may be taken.

(g) The state board of education shall approve a charter application if the state board of education determines that i) the application contains the information required by this act, ii) the applicant has the ability to operate the school and would be likely to operate the school in an educationally and economically sound manner, and iii) granting the application would achieve one or more of the purposes of this act, as defined in Section 3(a).

(h) If the state board of education approves a charter application on appeal, the state board of education shall serve as the chartering authority for that school.

(i) The state department of education shall review all approved charter agreements to ensure compliance with the provisions of this act and with the rules and regulations approved by the state board of education. If deficiencies are found, the department of education shall instruct both the sponsor and the chartering authority on the precise language necessary to correct said deficiencies. If either the sponsor or the chartering authority disagree with a ruling by the department of education, they may appeal said ruling to the state board of education.

(j) The state department of education shall reimburse local chartering authority for up to two thousand dollars (\$2,000) in expenses, including staff time, for each charter application that the local chartering authority receives and approves. Otherwise, chartering authorities may not charge a fee or require reimbursement of expenses for considering a charter application, approving a charter application, or for providing oversight of a public charter school.

SECTION 10. pilot program Phase.

(a) This act shall be implemented as a three-year pilot program followed by full implementation.

(b) For each of the academic years of 2001-2002, 2002-2003, and 2003-2004, no more than eighteen (18) charters may be authorized statewide and no more than six (6) per grand division, except as provided for in this section. After the 2003-2004 academic year, there shall be no limit on the number of charter applications that may be approved.

(1) During the pilot program phase, charters shall be authorized and issued by the commissioner of education in the order in which charter applications and charter agreements receive final approval by the various chartering authorities, according to the date and time in which they receive such approval.

(2) Upon approval of a charter application, a chartering authority shall notify the commissioner of education of approval. During the pilot program phase, the commissioner shall, upon notification, assign two numbers to each approved public charter school, one relative to the number of approvals granted statewide and the other

relative to the number of approvals granted within the school's grand division at the time that the application was approved. Charter approvals that do not surpass either the statewide or the grand division caps shall be considered to be authorized. Charters that surpass either the statewide or the grand division caps shall be held in abeyance by the commissioner, and final authorization shall be granted in accordance with Section 10(c) (3) and (4).

(3) If the cap in one or more grand divisions is not reached, the commissioner shall authorize up to two (2) additional approved charter applications in each of the other grand divisions up to the statewide cap.

(4) If, at any time prior to the opening of a public charter school, a sponsor or governing body voluntarily relinquishes its charter, loses its charter due to serious violation of its charter agreement, or has its charter agreement declared invalid by the commissioner due to fraud or serious noncompliance with state law, its number shall be offered to the next approved charter agreement in line. However, no sponsor or governing body shall lose its charter solely because it fails to open a school by a particular date.

(5) Charter agreements that are approved but for which charters are not authorized due to the statewide or grand division caps shall be considered to be nonapproved and shall not carry over to the following year.

(c) In keeping with the spirit of Section 49-3-365 (the break-the-mold schools section of the Basic Education Program), there shall be no cap on the number of conversion public charter schools in which the local board of education is the chartering authority and the sponsor is the local board of education, the local education agency, or the local collective bargaining unit and/or its state or national affiliates, nor shall such schools count toward the grand division or statewide caps during the pilot program phase.

(d) In keeping with the intent of this act to "provide expanded learning experiences for students who are at-risk for academic failure," during the pilot program phase, preference must be given to charter applications for programs designed to serve at-risk or special needs students. Following full implementation, chartering authorities are encouraged to continue to give preference to such programs on an ongoing basis.

(e) No later than January 15 and no later than August 15 of each year during the pilot program phase, and no later than January 15 following full implementation, the commissioner of education shall submit to the state legislature a report on the state's public charter school program, including , but not limited to, the following:

(1) The number of applications filed, approved, denied, appealed, and pending;

(2) The number of public charter schools that have opened and the number of students served;

(3) A profile and status report for each public charter school that has opened since the previous report;

(4) Test scores, as they become available, for pupils attending public charter schools, and an analysis of those test scores as provided for in Section 10 (e); and

(5) Data on the racial, ethnic, and socioeconomic makeup of the student enrollment of each public charter school, and an analysis of that data as provided for in Section 10 (e).

(f) In keeping with the intent of this act that public charter schools serve a disproportionate number of at-risk and special needs pupils, reporting by the state department of education on student achievement and on the racial, ethnic, and socioeconomic makeup of the student enrollment of public charter schools shall include fair and reasonable comparisons between pupils at public charter schools and pupils at other public schools:

(1) An analysis of student achievement in public charter schools shall include, but not be limited to, a) a comparison of each individual student's test scores with that student's test scores from previous years, including those years when the student was attending another school, and b) a comparison of the entire student body's test scores with the entire student body's test scores from previous years, including those years when some of the students were attending other schools.

(2) Comparisons between student achievement in public charter schools and in other public schools shall include, but not be limited to, a comparison between the pupils in a public charter school and a) the pupils in the public school in whose attendance area the public charter school is located, b) the pupils in all public schools in the school district in which the public charter school is located, c) the pupils in all public schools in the district, city, county, or state that serve student enrollments with similar socioeconomic demographics and academic classifications, and d) the pupils in all public schools located in areas with similar socioeconomic demographics in the district, city, county, or state.

(3) Comparisons of the racial, ethnic, and socioeconomic makeup of the student enrollment of public charter schools and other public schools shall include, but not be limited to, a comparison between the pupils in a public charter school and a) the pupils in the public school in whose attendance area the public charter school is located, b) the pupils in all public schools in the school district in which the public charter school is located, and c) the pupils in all public schools located in areas with similar socioeconomic demographics in the district, city, county, or state.

SECTION 11. The Charter Agreement.

(a) A public charter school shall operate under a written charter agreement signed by the sponsor and the chartering authority, which shall be binding upon the governing body of

the charter school. The charter agreement for a charter school shall contain at least each of the following:

- (1) A description of a program that is consistent with the approved application and that carries out one or more of the purposes stated in Section 2(a) of this act;
- (2) Specific goals or outcomes pupils are to achieve;
- (3) Admission policies and procedures;
- (4) Management and administration of the school;
- (5) Anticipated enrollment and an operating budget based thereon;
- (6) Requirements and procedures for administrative, program and financial audits;
- (7) A description of the manner in which compliance with the provisions of Sections 12 and 15 of this act shall be achieved;
- (8) Assumption of liability by the charter school;
- (9) Types and amounts of insurance coverage to either be held by the public charter school or provided by the local board of education;
- (10) The term of agreement, which shall be five (5) years; and
- (11) A description of the plan for transportation for the pupils attending the public charter school.

(b) A charter agreement may be amended at any time through the mutual agreement of the chartering authority and the sponsor or governing body of a public charter school. Any material changes to a charter agreement must be submitted to the department of education to be reviewed for compliance.

SECTION 12. General Requirements.

(a) A public charter school shall:

(1) Operate as a public, nonsectarian, nonprofit public school with control of instruction vested in its governing body under the general supervision of the chartering authority and in compliance with the charter agreement and this act;

(2) Receive local, state, and federal funds as provided in Section 13(a) and (b) of this act; and

(3) Provide special education services for students with disabilities as provided in Title 49, Chapter 10 and in compliance with federal law.

(b) A public charter school shall be subject to all federal and state laws and constitutional provisions prohibiting discrimination on the basis of disability, race, creed, color, national origin, religion, ancestry, or need for special education services. A public charter school may not violate or be used to subvert any state or federal court orders in place in the local school district.

(c) A public charter school shall comply with all applicable health and safety standards, regulations, laws, and codes of the United States, the state of Tennessee, and the county and municipality in which it is located.

(d) With the exception of employment contracts, all contracts for goods and services in excess of five thousand dollars (\$5,000) must be approved by the governing body of each public charter school.

(e) With regard to conflicts of interest, the governing body of a public charter school shall be subject to the provisions of Sections 12-4-101 and 12-4-102.

(f) The meetings of the governing body of a public charter school shall be deemed public business and must be held in compliance with Title 8, Chapter 44, Part 1.

(g) A public charter school shall require a criminal background check to be conducted on any person hired to serve on the staff of a public charter school and on any person nominated for or elected to membership on the governing body of a public charter school.

(h) All teachers in a public charter school must have a current valid Tennessee teaching license or be eligible for a waiver or permit under the same policies as those in other public schools, except for public charter schools operated by community colleges, colleges, and universities, as provided for as follows:

(1) In a public charter school operated by a college or university, a classroom teacher may be a full-time faculty member who has been granted institutional tenure or who has been designated as being on tenure track by the college or university.

(2) In a public charter school operated by a community college or technical institute, a classroom teacher may be a full-time faculty member who has at least three year's experience at that community college or technical institute in teaching the subject matter that he or she will teach in the public charter school.

(i) A public charter school is subject to audit procedures and audit requirements as approved by the state board of education.

SECTION 13. Funding.

(a) The state board of education shall allocate funds to public charter schools on the same per-pupil basis as all other public schools. State funds shall be disbursed according to the schedule established for the distribution of state funds pursuant to Section 49-3-354(a).

(b) The local board of education shall allocate funds to public charter schools on the same schedule and at least at the same per-pupil rate as all other public schools. Local boards of education are authorized and encouraged to fund public charter schools at higher rates, especially during start-up, or to provide additional funds in the form of specified grants.

(c) Local and state funds that would otherwise be allocated on the basis of enrollment in the prior year shall be allocated, during the first full academic year of operation of any public charter school, on the basis of the anticipated enrollment in the charter agreement, which amount may be subsequently reduced but not increased by the actual number of students enrolled.

(d) Public charter schools are eligible to apply for and receive Title 1, IDEA, and other federal, state, and local funds that are available to public schools based on student socioeconomic factors or other similar factors.

(e) In order to comply with the requirements for allocating funds to the public charter school, the local board of education may provide liability or other forms of insurance pursuant to the charter agreement.

(f) If the sponsor indicates approval is necessary for the sponsor to raise working capital, a chartering authority may approve a charter application for a public charter school before the sponsor has secured facilities, equipment, or personnel.

(g) A public charter school may also be funded by federal grants, grants, gifts, devises, or donations from any private sources; and state funds appropriated for the support of the public charter school, if any; and any other funds that may be received by the local school district. Public charter schools, the local board of education, and the state board of education are encouraged to apply for federal funds appropriated specifically for the support of public charter schools.

(h) All funds allocated to a public charter school shall be spent according to the budget submitted in the charter agreement or as otherwise revised by the charter school governing body, subject to the requirements of state and federal law.

SECTION 14. Admissions.

(a) A public charter school shall be subject to all federal and state laws and constitutional provisions prohibiting discrimination on the basis of disability, race, creed, color, national origin, religion, ancestry, or need for special education services. In addition, a public charter school may not limit admission to pupils on the basis of intellectual ability, measures of achievement or aptitude, or athletic ability.

(b) Any child who is qualified under the laws of this state for admission to a public school is qualified for admission to a public charter school. Except as provided in this section,

enrollment in a public charter school shall be open to any child who resides within the state as if the school were not operating under a charter.

(c) A charter school may limit admission to:

- (1) students within an age group or grade level; or
- (2) students who are eligible to participate in the “GED Plus 2” program, adult high schools and other similar programs.

(d) A public charter school shall enroll any eligible pupil who submits a timely application, unless the number of applications for new students exceeds the stated capacity of a program, class, grade level, or building. In that case, preference may be afforded to six classifications of students in the following order:

- (1) returning students, then
- (2) the siblings of returning students, then
- (3) the children of a teacher, sponsor, or member of the governing body of the charter school, not to exceed 10% of total enrollment or twenty-five (25) students, whichever is less, then
- (4) in the case of conversion schools only, the students who reside within the former attendance area of that school, then
- (5) the students who reside within the school district in which the public charter school is located, then
- (6) students residing outside the school district.

If the enrollment of any above-listed classification group would exceed the number of spaces available in a program, class, grade level, or building, then the members of that classification group shall be subject to a lottery to determine either admission or placement on a waiting list, and the members of all remaining groups shall be informed that no further openings are available.

(e) A public charter school may deny admission to a student who has been expelled from, or who is currently suspended from, another public school.

(f) No local board of education shall require any student enrolled in the local education agency to attend a public charter school.

(g) No staff member of a public charter school shall discourage special needs pupils from applying for admission to or attending a public charter school as a means of circumventing the obligation of the public charter school under state and federal law to provide educational services to special needs pupils. Likewise, no local board of education and no staff member of a local education agency shall encourage special needs pupils to attend a public charter school as a method of circumventing the obligation of the local education agency under state and federal law to provide educational services to special needs pupils.

(h) A public charter school shall not charge tuition, provided, however, that tuition may be charged if the local board of education approves a transfer from another district to a public charter school in its district pursuant to the provisions of Section 49-6-3003. A public charter school may charge reasonable student fees and student activity fees in keeping with common practice in other public schools.

SECTION 15. Student Achievement and Performance Standards.

(a) A public charter school must design its educational program to at least meet the performance standards and requirements adopted by the state board of education for students in other public schools. In the absence of state board performance standards and requirements, the public charter school must meet the specific goals and outcomes contained in its charter agreement.

(b) A public charter school must provide a minimum of one hundred eighty (180) days of academic instruction each year.

(c) Public charter schools must conduct the same student assessments required by the state board of education of other public schools, or the student assessments required by the

state board of education of public charter schools. Public charter schools may conduct any additional student assessments as they see fit.

(d) The achievement levels of the performance standards in a charter agreement may exceed the achievement levels of the performance standards adopted by the state board of education. However, in keeping with the intent of this act that public charter schools serve a disproportionate number of at-risk and special needs pupils, no charter shall be revoked or denied renewal solely because of the school's failure to reach achievement levels higher than the current state standards, higher than the achievement levels actually being reached by other public schools in the same attendance area or district, higher than the achievement levels actually being reached by other public schools serving areas of similar socioeconomic demographics, or higher than the achievement levels actually being reached by other public schools serving pupils of similar socioeconomic demographics or academic classifications.

SECTION 16. Transportation.

(a) A public charter school is eligible to receive pupil transportation funds in the same manner as other public schools.

(b) If a public charter school elects to provide transportation for its pupils, the transportation shall be provided by the public charter school or by agreement with the local education agency within the district in which the charter school is located in the same manner it would be provided if the students were enrolled in any other school within the local education agency.

(c) For pupils who reside outside the district and who have been approved by the local board of education to attend a public charter school in its district, the public charter school is not required to provide or pay for transportation between the pupil's residence and the border of the district in which the public charter school is located; provided, however, a parent may be reimbursed by the public charter school for the costs of transportation from the pupil's residence to the border of the district in which the charter school is located if the pupil is from a family

whose income is at or below the poverty level, as determined by the federal government. The reimbursement may not exceed the pupil's actual cost of transportation or fifteen (15) cents per mile traveled, whichever is less. Reimbursement may not be paid for more than two hundred fifty (250) miles per week.

(d) At the time that a parent or potential pupil requests information from or applies for admission to a public charter school, the school shall provide information regarding its transportation policies and services.

SECTION 17. Employees.

(a) The governing body of a public charter school may employ or contract with personnel, prescribe their duties, and fix their compensation.

(b) An employee of a public charter school is not an employee of the local education agency in which the public charter school is located.

(c) No local education agency shall require any employee of the LEA to be employed at a public charter school.

(d) Employees of a public charter school may, if otherwise eligible, organize under the "Education Professional Negotiations Act", Title 4, Chapter 5, Part 6, and comply with its provisions. For the purposes of the Education Professional Negotiations Act, the governing body of a public charter school is a public employer upon formation on one or more units at the school. Bargaining units at charter schools shall be separate from any other bargaining units, although they may elect to affiliate with and/or be represented by any appropriate individual, group, or organization. A public charter school shall be considered to be an independent school district for the purposes of collective bargaining and shall not be subject to the collective bargaining agreements of the school district in which it is located or of any other district.

(e) Regardless of whether its staff has organized under the Education Professional Negotiations Act, a public charter school has the authority to meet or surpass the provisions of the collective bargaining agreement in effect in the school district in which it is located.

SECTION 18. Teachers' Leave of Absence, Insurance.

(a) A teacher employed by a local education agency may make a written request for a leave of absence to teach at a public charter school, and that request must be granted. The local education agency may require that the request for a leave of absence be made up to ninety (90) days before the teacher would otherwise have to report for duty. Leaves of absence may take one of two forms:

(1) A teacher may request a leave of absence of up to one (1) year, as provided for under Title 49, Chapter 5, Part 7, which shall be governed by that part regarding reinstatement, notice of intention to return, seniority, salary, insurance, and other matters. Any extensions after the first year are at the discretion of the local education agency.

(2) A teacher may request an extended leave of absence for any number of years to teach at a public charter school, and may request an extension of the leave of absence for any number of years, providing, however, that the teacher will be reinstated following the leave of absence only if and when an appropriate position is available. If an appropriate position is unavailable, the teacher's name shall be placed on a list of available teachers, and that teacher shall have priority on all positions for which that teacher is qualified.

(b) The years of service acquired by a teacher while on a leave of absence to teach at a public charter school may not be used to establish or complete tenure status in a local education agency. The career status held by a teacher upon taking a leave of absence to teach at a public charter school shall remain unchanged upon that teacher's return to the local education agency.

(c) Teachers, as defined in Section 8-34-101(46), of a public charter school may participate in the group insurance plans authorized in Title 8, Chapter 27, Part 3 in the same manner as teachers of the local education agency.

SECTION 19. Tennessee Consolidated Retirement System.

Tennessee Code Annotated. Title 8, Chapter 35, Part 2, is amended by adding the following as a new appropriately designated section:

Section 8-35-2 (___)(a) Any public charter school formed and operated under the Tennessee Public Charter Schools Act of 2000 shall become a participating employer in the Tennessee consolidated retirement system and all its teachers shall become members of the retirement system as a condition of employment.

(b) Except as provided in subsection (c), all teachers of a public charter school shall participate in the retirement system under the same terms and conditions as they exist now or in the future for public school teachers.

(c) Notwithstanding any provision of the law to the contrary, a teacher of a public charter school shall pay both the employer and employee contributions attributable to the employee's participation in the retirement system, unless the governing body of the school elects to assume the employer contributions pursuant to subsection (e) of this section. In such event, the teacher shall be responsible for employee contributions required by Section 8-37-202.

(d) The governing body of a public charter school shall pay for the cost of an actuarial study to determine the liability associated with its teachers' participation in the Tennessee consolidated retirement system.

(e) The governing body of a public charter school may, by resolution duly adopted, assume the total amount of employer contributions required to be paid by its teachers pursuant to subsection (c).

(f) Notwithstanding any provision of the law to the contrary, the retirement system shall not be liable for the payment of any retirement allowances or other benefits on account of the teachers or beneficiaries of a public charter school for which reserves

have not been previously created from funds contributed by the public charter school or its teachers for such benefits.

(g) Benefits payable on behalf of a public charter school participating under this section shall not be paid if assets credited to that public charter school are not equal to or greater than their benefit obligations for that month. Retroactive benefits shall be paid upon accumulation of sufficient assets.

SECTION 20. Oversight and Reporting.

(a) A public charter school shall be governed and managed by a governing body in a manner agreed to by the sponsor and the chartering authority as provided in the charter agreement. Except as otherwise provided in this act or in the charter agreement, the governing body of a public charter school shall decide matters related to the operation of the school, including, but not limited to, budgeting, curriculum, and operating procedures.

(b) A chartering authority shall monitor the public charter schools authorized by its decisions for the purposes of ensuring compliance with the charter agreement, the requirements of this act, and state and federal law.

(c) The regulatory power of chartering authorities shall not extend to public charter schools except as otherwise specifically provided for in this act.

(d) In order to maintain the stability of the educational process, chartering authorities are encouraged to provide notification to public charter schools regarding possible violations, noncompliance, or other conditions that could lead to the nonrenewal or revocation of a charter. Chartering authorities may place public charter schools on probation, set conditions for ending probation, or issue other appropriate warnings, allowing public charter schools reasonable time to correct the stated problems.

(e) No later than November 15 of each year, the governing body of a public charter school shall submit an annual progress report to the sponsor of the public charter school, the chartering authority, the education oversight committee of the general assembly, the state board

of education, and the commissioner of education. The report shall contain at least the following information:

- (1) A report on the progress of the public charter school toward achieving the goals, objectives, pupil performance standards, content standards, and other terms of its charter agreement, and
- (2) A financial statement that discloses the costs of administration, instruction, and other spending categories for the charter school; and
- (3) Any other information that the governing body of the public charter school determines is necessary in order to provide a full and accurate picture of the academic, financial, and operational status of the public charter school; and
- (4) Any proposed amendments to the charter agreement.

The reports made pursuant this section shall be public information pursuant to the provisions of Section 10-7-504(a)(4).

SECTION 21. Renewal of a Charter Agreement.

(a) Charter agreements may be renewed indefinitely for periods of five (5) academic years. Charter agreements may be denied renewal only with cause.

(b) In the annual progress report submitted the year prior to the year in which its charter expires, the governing body of a public charter school shall include the following:

- (1) Goals and projections for the pupil performance standards, content standards, operational standards, and other terms of the charter agreement for the five-year renewal period;
- (2) A projected budget for the five-year renewal period;
- (3) Any other information that the governing body of the public charter school determines is necessary in order to provide a full and accurate picture of the academic, financial, and operational objectives of the public charter school; and
- (4) Any proposed amendments to the charter agreement.

(c) Within sixty (60) days of the receipt of the annual report specified in Section 20 (b), a chartering authority shall rule by resolution, at a regular or special called meeting, on the approval or denial of a charter renewal. Should a chartering authority fail to either approve or deny a charter renewal within the sixty (60) day time limit herein prescribed, such renewal shall be deemed approved.

(d) The chartering authority shall approve a charter renewal if the chartering authority determines that i) the annual report contains the information required by this act, ii) the governing body has demonstrated the ability to operate the school and is likely to continue to operate the school in an educationally and economically sound manner, and iii) granting the renewal would achieve one or more of the purposes of this act, as defined in Section 3(a).

(e) The grounds upon which a local chartering authority has based a decision to deny a renewal must be stated in writing.

(f) Within fifteen (15) days of receipt of a denial decision by a local chartering authority and the written grounds for denial, the sponsor or governing body may submit an amended annual report to the local chartering authority. The local chartering authority shall have fifteen (15) days from receipt of an amended annual report to approve or deny the renewal. Should the local chartering authority fail to either approve or deny the renewal within the fifteen (15) day time limit herein prescribed, the renewal shall be deemed approved.

(g) A denial by a local chartering authority of a renewal may be appealed by the sponsor, within fifteen (15) days of the denial, to the state board of education. The appeal shall receive de novo review on the record, without the presumption of correctness of the decision of the local chartering authority.

(h) Within sixty (60) days of the receipt of an appeal, the state board of education shall rule by resolution, at a regular or special called meeting, on the approval or denial of a renewal. Should the state board of education fail to either approve or deny a renewal within

sixty (60) days of the receipt of an appeal, such renewal shall be deemed approved. A decision by the state board of education shall be final, and no appeal may be taken.

(i) The state board of education shall approve a renewal if the state board of education determines that i) the annual report contains the information required by this act, ii) the governing body has demonstrated the ability to operate the school and is likely to continue to operate the school in an educationally and economically sound manner, and iii) granting the renewal would achieve one or more of the purposes of this act, as defined in Section 3(a).

(j) If the state board of education approves a renewal on appeal, the state board of education shall serve as the chartering authority for that school.

SECTION 22. Revocation of a Charter.

(a) The charter held by a public charter school may be revoked by the school's chartering authority or by the state board of education if the chartering authority or the state board of education determines that the public charter school:

(1) Committed a material violation of any of the conditions, standards, or procedures set forth in the charter agreement; or

(2) Committed a serious violation of state or federal law or repeatedly failed to meet local or state health and safety standards in such a way that pupils' lives or health are or may be endangered; or

(3) Failed to meet or make reasonable progress toward achievement of the minimum pupil performance standards required of all public schools; or

(4) Failed to meet generally accepted standards of fiscal management.

(b) The reasons for revoking a charter must be stated in writing.

(c) A decision by a local chartering authority to revoke a charter agreement may be appealed to the state board of education within fifteen (15) days of the decision. The state board of education shall rule on the appeal of a revocation with all deliberate haste, and no later than thirty (30) days after the receipt of the appeal. During the appeals process of a charter

revocation, the state board of education may establish, or may authorize the local board of education to establish, reasonable monitoring mechanisms to protect against the misappropriation of funds or other serious misconduct within the public charter school.

(d) If the state board of education, on appeal, decides not to revoke a charter, the state board of education shall become the chartering authority for that school.

(e) Whenever possible, a decision to revoke a charter shall become effective following the close of the school's academic year. When the effective date of a revocation is delayed in this manner, the local board of education and the state board of education shall be authorized to take all necessary steps to protect against the misappropriation of funds or other serious misconduct within the public charter school prior to the effective date. Such steps may include, but are not limited to, the removal of members of the faculty, staff, and the governing board.

(f) At the close of the fiscal year of a public charter school following the revocation of its charter, the sponsor and/or governing body of the school shall complete or cause to be completed the bookkeeping and accounting records of the school in compliance with standard accounting practices and to submit the completed records to the chartering authority and to the state board of education.

SECTION 23. Pupil Enrollment Following Revocation or Nonrenewal.

If a charter agreement is not renewed or is terminated in accordance with Section 21 of this act, a pupil who attended the school, siblings of the pupil, or another pupil who resides in the same place as the pupil may enroll in the resident district or may submit an application to a nonresident district according to the provisions of Section 49-6-3105, at any time. Applications and notices required by this section shall be processed and approved in a prompt manner.

SECTION 24. Information Sharing.

By the end of the pilot program phase, the state department of education shall develop mechanisms to facilitate the sharing of ideas and information regarding innovative teaching and

management techniques between public charter schools, other public schools, and local education agencies. Except for actual expenses, including staff time, and subject to the prescriptions of any contract with third-party providers, no public charter school shall charge any public school or local education agency for the use or replication of any part of its curriculum.

SECTION 25. General Authority.

- (1) The governing body of a public charter school may sue and be sued.
- (2) A governing body of a public charter school may conduct activities necessary and appropriate to carry out its responsibilities including, but not limited to, contracting for services, buying, selling or leasing property, borrowing funds, and pledging its assets as security, provided, however, that those assets are not leased or loaned by the state or local government.
- (3) A public charter school may contract for goods and services under the same provisions as other public schools, provided, however, that if the public charter school intends to procure substantially all educational and/or management services under contract with another individual, group, organization, or corporation, the terms of such contract must be approved by the chartering authority as part of the original charter agreement or as an amendment thereto; provided, further, that the chartering authority shall not approve any such contract terms the purpose or effect of which is to avoid the prohibition of Section 6 (e) (3) against granting charter status to a private or home school.

- (4) The governing body of a public charter school may not levy taxes or issue bonds.

SECTION 26. Immunity.

The state board of education, members of the state board of education, the local board of education, members of the local board of education, the chartering authority, members of the board of the chartering authority, the sponsor, members of the board of the sponsor, employees of the sponsor, the governing body, and the members of the governing body of a public charter school shall be immune from civil liability with respect to all activities related to a public charter

school they approve, sponsor, or operate. Such immunity shall be removed when such conduct amounts to willful, wanton, or gross negligence.

SECTION 27. Grievance.

(a) Any individual or group may bring a complaint to the governing board of a public charter school alleging a violation of the provisions of the school's policies, the charter agreement, this act, or any other provision of law relating to the management or operation of a public charter school. Within thirty (30) days of receiving the complaint, the governing body shall respond to the complainant and shall state in writing what steps it has taken, is taking, or plans to take to remedy the situation.

(b) If the complainant determines that the governing body has not adequately addressed the complaint, the complainant may present the complaint to the chartering authority. Within thirty (30) days of receiving the complaint, the chartering authority shall respond to the complainant and shall state in writing what steps it has taken, is taking, or plans to take to remedy the situation.

(c) If the complainant determines that the chartering authority has not adequately addressed the complaint, and if the chartering authority is other than the state board of education, the complainant may present the complaint to the state board of education, which shall respond to the complainant in writing within thirty (30) days.

(d) The chartering authority and the state board of education shall have the power and the duty to issue appropriate remedial orders to public charter schools under their jurisdiction to effectuate the provisions of the charter agreement and this act.

(e) If the governing board of a public charter school determines that a local chartering authority has acted unfairly or capriciously in its remedial orders, the governing body may appeal the local chartering authority's ruling to the state board of education.

SECTION 28. Rules and Regulations.

The state board of education is authorized to promulgate rules and regulations for the administration of this act.

SECTION 29. Public Notice.

(a) The state department of education shall provide information to the public, directly and through the local boards of education, on how to form and operate a public charter school. This information shall include a standard application format which shall include the information specified in Section 7 of this act.

(b) Each year, the state department of education shall notify the public, through announcements sent to each local education agency and each public postsecondary educational institution and through press releases sent to each major newspaper in the state, of upcoming deadlines for submitting charter applications, grant proposals, or other related applications.

SECTION 30. Public and Private Assistance.

(a) The state board of education shall direct the department of education to provide guidance and technical assistance to potential charter applicants, charter applicants, and charter operators in the form of written materials, telephone or direct consultation, and workshops.

(b) The state board of education shall direct the department of education to provide guidance and technical assistance in the form of written materials, telephone or direct consultation, and workshops, to local boards of education and local education agencies regarding their relationship to, and working relationship with, public charter schools.

(c) Local boards of education and local education agencies are authorized and encouraged to provide support services such as administrative services, evaluative services, or technical assistance to public charter schools located within their district either free or at cost.

(d) Local boards of education and local education agencies are authorized and encouraged to contract with public charter schools to provide services such as student transportation or food services at cost or at competitive prices.

(e) The school district of residence of children attending a public charter school may, but is not required to, allow such children to participate in athletic and extracurricular activities of the district's school, for which reasonable student activity fees may be levied.

(f) The department of general services shall annually publish a list of vacant and unused buildings and vacant and unused portions of buildings that are owned by the state and that may be suitable for the operation of a public charter school. Such list shall be provided to those requesting charter application forms. At the request of a prospective applicant, sponsor, or governing body, a local board of education shall make available a list of vacant and unused buildings and vacant and unused portions of buildings under its jurisdiction that may be suitable for the operation of a public charter school, and shall sell, lease, or rent available space to public charter schools at the same rate and under the same terms as other tenants or buyers.

(g) Public and private nonprofit organizations including, but not limited to, colleges and universities, museums, performing arts organizations, and social service agencies are encouraged to form partnerships with public charter schools in order to facilitate their community outreach efforts while increasing learning opportunities for pupils.

(h) Private persons and organizations are encouraged to provide funding and other assistance to the establishment and operation of public charter schools.

SECTION 31. Effective Date.

This act shall take effect upon becoming law, the public welfare requiring it.